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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91181621
Party	Plaintiff StonCor Group, Inc.
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Date	02/08/2011
Attachments	8_FEB_2011_MOTION_TO_SUSPEND_SUPP_BRIEF.pdf (4 pages)(31382 bytes)

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

StonCor Group, Inc.	:	
	:	
Opposer	:	
v.	:	Opposition 91181621
	:	
	:	Application 76/650,832
	:	
Les Pierres Stonedge, Inc.	:	Mark: STONEDGE
	:	
Applicant	:	

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Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

**STONCOR'S MOTION TO SUSPEND THE RULES
FOR 15 DAYS AND FOR LEAVE TO FILE SUPPLEMENTAL BRIEF**

In this opposition proceeding, Opposer StonCor Group, Inc. ("StonCor") has opposed the application of Les Pierres Stonedge, Inc. ("Les Pierres") for registration of the mark STONEDGE for use on and in connection with "pre-cast decorative stone" on the basis of StonCor's registered, incontestable marks STONHARD, STONBLEND, STONCLAD, STONCRETE, STONFIL, STONLINER, STONLOK, STONSET, STONSHIELD,

STONKOTE, STONCREST, STONLUX, STONPROOF and STONSEAL¹, which are registered for epoxy-based floors, epoxy resins, and related products such as mortars, grouts and sealants.

StonCor could not take testimony in this opposition proceeding during StonCor's testimony period due to the illness of StonCor's counsel. StonCor's request to reopen StonCor's testimony period, after StonCor's counsel had recovered, was denied as was StonCor's request for reconsideration of that denial.

Les Pierres took no testimony and presented no evidence.

StonCor took rebuttal testimony over Les Pierres' objection. The transcript of StonCor's rebuttal testimony has been filed together with the exhibits offered in evidence during the rebuttal testimony.

An oral hearing was conducted on 9 November 2010. At the hearing, StonCor took the position that StonCor's rebuttal testimony and documentary evidence were admissible to rebut a presumption of administrative correctness to which the United States Patent and Trademark Office action of approving Les Pierres' application was entitled, just as is any essentially final action of any administrative agency.

At the hearing the Administrative Trademark Judges inquired as to StonCor's authority for the proposition that the action by the United States Patent and Trademark Office of approving Les Pierres' application was entitled to a presumption of administrative correctness (which StonCor would be entitled to rebut with StonCor's rebuttal testimony and evidence). In the

¹ The StonCor family of marks includes the incontestable registrations that were asserted as the basis for the opposition. These are the marks STONHARD, U.S. registration 1,487,280; STONCLAD, U.S. registration 1,706,070; STONKOTE, U.S. registration 1,697,228; STONSHIELD, U.S. registration 1,689,713; STONBLEND, U.S. registration 1,712,857; STONCLAD-PT, U.S. registration 1,306,662; STONCREST, U.S. registration 1,740,723; STONCRETE, U.S. registration 1,645,258; STONFIL, U.S. registration 1,703,299; STONLINER, U.S. registration 1,688,593; STONLOK, U.S. registration 1,655,954; STONLUX, U.S. registration 1,687,420; STONPROOF, U.S. registration 1,697,229; STONSET, U.S. registration 1,691,045; and STONSEAL, U.S. registration 1,697,230. Two title and status photocopies of each of these incontestable registrations accompanied the notice of opposition in accordance with 37 CFR 2.122(d)(1) and hence are of record and in evidence.

colloquy with the Administrative Trademark Judges, StonCor stated that it did not at that time know of case law or other authority directly addressing the proposition, but that as a general principle of administrative law, action of the United States Patent and Trademark Office resulted in such a presumption (which StonCor was entitled to rebut.) In further course of the discussion, the Administrative Trademark Judges suggested that they did not know of any authority addressing the issue of whether a presumption of administrative correctness attaches to the action of the United States Patent and Trademark Office in approving a trademark application for opposition purposes.

In view of the suggestion by the Administrative Trademark Judges at the 9 November hearing that they knew of no authority addressing the issue, it is appropriate for authority relevant to that issue to be brought to the Board's attention, so that the Board might render its decision in this case in a manner consistent with decided precedent.

Having researched the law and having found case law and other materials relevant to the issue, StonCor moves to suspend the rules for a period of 15 days in order for StonCor to file a brief addressing the same.

Respectfully submitted,

Date: 8 February 2011

/Charles N. Quinn/
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Les Pierres Stonedge, Inc.	:	
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Applicant	:	

CERTIFICATE OF SERVICE

I, Charles N. Quinn, of full age, by way of certification, state that a copy of the foregoing paper was served on applicant's counsel on the date set forth below via first class mail, postage prepaid, addressed as follows:

James R. Menker, Esquire
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P. O. Box 331937
Atlantic Beach, FL 32202

Date: 8 February 2011

/Charles N. Quinn/
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